

March 25, 2009

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUITElisabeth A. Shumaker
Clerk of Court

In re:

JULIO CAESAR CASTILLANO,

Petitioner.No. 08-2310
(D.C. No. 1:06-CR-01299-JB-1)
(D. N.M.)

ORDER

Before **TACHA, KELLY**, and **HARTZ**, Circuit Judges.

Julio Caesar Castellano has filed a petition for a writ of mandamus seeking an order from this court directing the district court to rule on his motion for retroactive application of the sentencing guidelines to his crack cocaine offense pursuant to 18 U.S.C. § 3582(c)(2). The district court docket sheet reflects that the court entered a Memorandum Opinion and Order denying Mr. Castellano's motion on September 15, 2008. Accordingly, the petition for mandamus is DISMISSED as moot. The motion for leave to proceed in forma pauperis is DENIED.

Entered for the Court,



ELISABETH A. SHUMAKER, Clerk